

SEBASTIAN TAPIA, OSB #043761
LANE COUNTY OFFICE OF LEGAL COUNSEL
125 East Eighth Avenue
Eugene, OR 97401
Telephone: (541) 682-3728
Facsimile: (541) 682-2038
E-mail: sebastian.tapia@lanecountyor.gov

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

4 Him Food Group, LLC, an Oregon
corporation dba Cosmos Creations,

Debtor.

Case No.: 19-62049-tmr11

OBJECTION TO SALE

RESPONSE

Creditor, Lane County Office of Assessment and Taxation, objects to Debtor's Motion for Order Authorizing the Sale of Substantially All Assets of the Debtor and Related Relief. ECF No. 76. Creditor claims a super-priority interest in the personal property that is subject to the proposed sale. Because this motion seeks to sell personal property "free and clear of liens," Lane County would be disproportionately disadvantaged under the proposed terms of this sale. *See* ECF No. 76, p. 5 ("The sale will be free and clear of lien and liability. . ."); *See also* ECF 76, p. 76, Exhibit A, p. 5 (Creditor references the sale of personal property). To the extent that Debtor might also seek to extinguish the super-priority lien resulting from unpaid real property

taxes, including taxes imposed on machinery and equipment, Creditor objects on that basis as well.

RELEVANT POINTS AND AUTHORITIES

Personal property is defined to include “all chattels and movables, such as boats and vessels, merchandise and stock in trade, furniture and personal effects, goods, livestock, vehicles, farming implements, movable machinery, moveable tools and moveable equipment.” ORS 307.020 (1)(c).

“Machinery and equipment” is classified as Real Property. Real property is defined to include the following:

- A. The land itself, above or under water;
- B. All buildings, structures, improvements, machinery, equipment, or fixtures erected upon, above or affixed to the land.

ORS 307.010(1)(b).

Ad valorem taxes are defined as “taxes lawfully imposed or levied on real or personal property.” ORS 311.405(1). Such taxes are liens on real and personal property, respectively. *Id.* By statute, these liens “have priority over and shall be fully satisfied before all other liens, judgments, mortgages, security interests or encumbrances on the property without regard to the date of creation, filing or recording.” ORS 311.405(9)(b).

These liens were intended to survive a transfer of ownership. “Real or personal property that is subject to taxation on July 1 shall remain taxable and taxes levied thereon for the ensuing tax year shall become due and payable, notwithstanding any subsequent transfer of the property to an exempt ownership or use.” ORS 311.410(1).

Debtor's proposed plan would, in effect, eliminate Creditor's super-priority interest and eliminate the collateral for the lien attaches, both of which disproportionately disadvantages Creditor.

Creditor therefore requests the Court deny Debtor's Motion for Order Authorizing the Sale of Substantially All Assets of the Debtor and Related Relief.

DATED this 25th day of October, 2019.

LANE COUNTY OFFICE OF LEGAL COUNSEL

By: s/ Sebastian Tapia
SEBASTIAN TAPIA, OSB #043761
Assistant County Counsel
Lane County Office of Legal Counsel
Of Attorneys for Creditor
Lane County Office of Assessment and Taxation

CERTIFICATE OF SERVICE

I certify that on October 25, 2019, I served the foregoing **OBJECTION TO SALE**, by placing a duly certified copy thereof in a sealed envelope plainly addressed as follows:

Timothy A. Solomon Leonard Law Group, LLC 1 SW Columbia, Ste. 1010 Portland, Oregon 97204
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XX Postage prepaid and deposited in the United States Post Office at Eugene, Oregon

XX CM/ECF

_____ Delivered personally by me or by a member of my staff

_____ Facsimile Transmission, Fax No.: _____

_____ Electronic Mail

_____ Other (specify): _____

s/ Sebastian Tapia
SEBASTIAN TAPIA, OSB #043761
Assistant County Counsel
Lane County Office of Legal Counsel
125 East Eighth Avenue
Eugene, Oregon 97401
Telephone: (541) 682-3728
Facsimile: (541) 682-2038
E-mail: Sebastian.tapia@lanecountyor.gov
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and Taxation